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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,230	08/16/2000	Peter V. Boesen	P03999US2	3395

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801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER

YUN, EUGENE

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 04/10/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/640,230

Applicant(s)

BOESEN, PETER V.

Examiner

Eugene Yun

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2-4. 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 12-16 objected to because of the following informalities: Claim 12 depends on itself. Appropriate correction is required.

It is believed by the examiner that Claims 12, 13, and 16 should depend on Claim 11 and Claims 14 and 15 should depend on Claim 12.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-7, 11, 12, and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (US 5,721,783).

Referring to Claim 1, Anderson teaches a voice sound transmitting unit having the advantage of connectivity, the unit comprising:

an earpiece 10 (fig. 1) adapted to be inserted into the external auditory canal of the user and having one or more sensors 12 (fig. 1) adapted to convert vibrations of voice sound information to electrical signals;

a transmitter operatively connected with the speech processor and adapted to receive the electrical signals for transmission 14 (fig. 1); and

a cradle including a receiver adapted to receive a transmission from the transmitter and convert the transmission into electrical signals, the cradle including a connector operatively connected to the receiver and adapted to link the receiver to a host device (see col. 5, lines 61-67).

Referring to Claim 11, Anderson teaches a voice sound transmitting system having the advantage of connectivity, the voice sound transmitting apparatus comprising:

an earpiece 10 (fig. 1) adapted to be inserted into the external auditory canal of the user and having one or more sensors 12 (fig. 1) adapted to convert vibrations of voice sound information to electrical signals; and

a cradle adapted for receiving a host device, said cradle including a connector operatively linking the cradle with the host device (see col. 5, lines 61-67), and a linkage operatively connecting the cradle to the earpiece F1 and F2 (fig. 2).

Referring to Claim 17, Anderson teaches a method of transmitting voice sound information comprising:

sensing the voice sound vibrations of the user through an earpiece 10 (fig. 1) adapted to be inserted into the external auditory canal of the user, the earpiece having one or more sensors 12 (fig. 1) adapted to convert the voice sound vibrations to electrical signals;

transmitting the voice sound information over a linkage F1 (fig. 2); and

receiving the voice sound information passed through the linkage on a cradle, the cradle being operatively connected to a host device (see col. 5, lines 61-67).

Referring to Claim 2, Anderson also teaches the cradle including a power source 920 (fig. 9).

Referring to Claim 4, Anderson also teaches the cradle including antennae 900, 902, 960, and 970 (fig. 9).

Referring to Claim 5, Anderson also teaches the host device as a cellular telephone 28 (fig. 2).

Referring to Claim 6, Anderson also teaches the host device as a computer (see col. 6, lines 21-25).

Referring to Claim 7, Anderson also teaches the host device as a personal digital assistant (see col. 6, lines 21-25).

Referring to Claims 8 and 9, Anderson also teaches the connectors as serial and parallel connectors (see col. 6, lines 21-25 where most computers are equipped with serial and parallel connectors).

Referring to Claim 12, Anderson also teaches the linkage as a wireless linkage F1 and F2 (figs. 2).

Referring to Claim 14, Anderson also teaches radio frequency transmission 13 (fig. 1).

Referring to Claim 15, Anderson also teaches an infrared beam for transmission (see col. 5, lines 66-67 and col. 6, line 1).

Referring to Claims 16 and 18, Anderson also teaches the earpiece not occluding the external auditory canal of the user (see col. 3, lines 56-58).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Puthuff et al. (US 6,181,801).

Referring to Claim 10, Anderson does not teach a headphone-jack type connector. Puthuff teaches a headphone-jack type connector (see col. 6, lines 19-21). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teachings of Puthuff to said apparatus of Anderson in order to expand the different methods a communication earpiece can be used.

Referring to Claim 13, Anderson does not teach hard-wired linkage. Puthuff teaches hard-wired linkage (fig. 13). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teachings of Puthuff to said apparatus of Anderson in order to expand the different methods a communication earpiece can be used.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson in view of Viallet (5,917,698).

Anderson does not teach the cradle including electromagnetic shielding. Viallet teaches the cradle including electromagnetic shielding (see col. 1, lines 56-67 and col. 2, lines 1-2).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Yun whose telephone number is (703) 305-2689. The examiner can normally be reached on 8:30am-5:30pm Alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (703) 308-6739. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Eugene Yun
Examiner
Art Unit 2682

EY
April 7, 2003

Lee Nguyen 
Primary Examiner